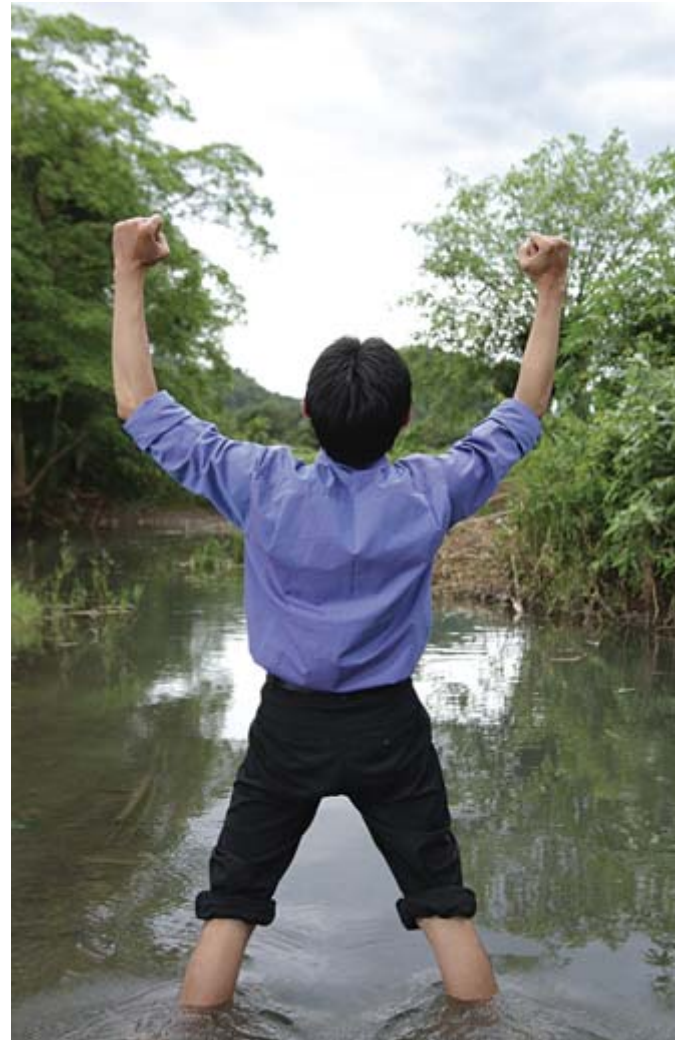




Peak performance in litigation through relaxation

Have your nerves gotten in the way? Here are practical suggestions on de-stressing so you can gain the upper hand in the courtroom.



By J. GARY GWILLIAM

I have been a trial lawyer for over 40 years. My entire career has involved nothing but litigation, first as a prosecutor for several years and then as a plaintiff's lawyer since 1966. I have tried over 150 jury trials to verdict. I learned how to try cases the hard way; through trial and error. I had very little mentoring or teaching about trial techniques. I learned them on my own and through trial lawyer seminars. These days, there is much more

information available to lawyers in the field of litigation. There are more trial practice courses and seminars, yet we still learn the most from other trial lawyers who have been there before us. In that vein, I hope you can benefit from my experience.

What I really want to do is to teach you how to be the very best lawyer that you can. My goal is to show you how to achieve peak performance in every part of your practice. Being able to do this requires that you have good energy, mental alertness, strong concentration abilities

and a good memory. It also involves knowing how to speak articulately and have top-notch listening skills.

These should be the goals of every lawyer. Why is it that we can't always be at our best? What holds us back? The literature is full of good articles and books on the negative effects of stress. Yet, so many of us seem to ignore the symptoms of overwork and overstress. We get tired, irritable and distracted, yet we don't make serious efforts to cure those ills. Instead, we work even harder, get more tired, overstressed and irritable. Sometimes we



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lawyers seem to think we are super humans. We act as if the well-known effects of not taking care of ourselves don't apply to us because we have law degrees. We seem to think that we are smarter than the general public. We can get away with ignoring these symptoms. This is simply not true. When we are tired and overworked, we cannot perform at our best. If we don't take care of ourselves physically, our mental abilities suffer.

The same is true of taking care of our emotional selves. Negative emotions such as anger, frustration and resentment can cause a drain in our energy. They make it difficult to concentrate and be at our best. We need to learn to control our emotions through relaxing and letting go. Many lawyers seem to think that they can control their emotions by sheer will power through repression or denial. This is not the way to deal with these emotions. The techniques discussed in this article will help pave the way to turn negative emotions into positive ones. This is critical to performing at peak levels.

Specific techniques to achieve your peak performance

• Getting physical

What can we do physically to help us become better lawyers? Once again, it is all about energy. If we go to trial, appear at a contested hearing, participate in a mediation, represent a client at a deposition, or meet with a client when we are tired and run down, we obviously won't perform as well.

How many lawyers work on trying to get a good night's sleep? How many of us eat properly or actually exercise? I am not suggesting that you have to be an athlete to be at your very best, but I certainly think we need to pay attention to our physical bodies. If our physical bodies are not performing well, neither are our brains. We cannot concentrate, we are irritable and we cannot speak well. Ultimately, we become frustrated and fail.

It is beyond the scope of this article to try to get into every aspect of physical fitness, but I do think that lawyers who want to perform at a peak performance level must pay attention to their physical shape as well as their mental abilities.

Taking an example from athletics, consider Michael Jordan. Arguably, he is the best basketball player that ever lived. If he were preparing for an important game, would he stay up all night? Would he drink a lot of coffee before the game? Would he start the game with a hangover? I doubt it.

Most great athletes make a serious effort to relax before a game. They go within themselves. They do everything they can to be in the best shape possible, both mentally and physically. As lawyers, we should learn from them.

• Loosening up

Take deep breaths. Another way to improve our physical state before an important hearing or meeting is to loosen up our body. You can do this very easily: Take several deep breaths and then do a little bit of walking – maybe you can even take few moments to step outside and walk around the block. This will help you loosen up.

By concentrating on your breath, you will relax. Furthermore, the energy that we need to face an important hearing or meeting comes more from our breath than from what we eat. The breath gives us immediate relief by allowing oxygen to get into the blood which then sends energy to our brain and the rest of our body and allows us to perform at a higher level.

Do simple stretches. Stretch your neck and back, and roll your head around while you take some deep breaths. Doing this will enable you to improve your courtroom performance. When you rush into the courtroom, briefcase and coat in hand, and immediately launch into the hearing, you are not functioning at your best because you are stressed and tense. When you are relaxed, you are centered. When this is

your state of mind, you will perform much better.

When I watch other lawyers in court, I am constantly amazed at how few lawyers really pay attention to their mental, physical and emotional state. These lawyers are often tense and anxious. They hold on to their notes with a death grip and try to force their points or arguments on others. They are irritable and interrupt opposing counsel, or even worse, the judge. Lawyers in this state of mind will never perform at their best.

Pay attention to your body. How does your body feel? What is your stress level? How does your neck feel? Is your back hurting? Are you all tensed up? Is your mind running a mile a minute? If you feel any of these things, you need to stop and refocus.

Trial lawyers who are centered, at ease and relaxed will perform better. I have proven this to myself over the years. I used to be a lawyer full of high energy and analytical activity. I was edgy and nervous before hearings. For years, I used to get the dry heaves before I started important trials. At the time, I didn't really recognize that this was simply a manifestation of my stress and anxiety.

Meditate. Another helpful technique for lawyers is meditation. Now, I don't mean full Buddhist meditation where you must sit for 30 minutes and chant mantras (although that is a wonderful technique if you are able to do it). Most lawyers, including myself, have difficulty with traditional types of meditation.

However, there are many short meditations that can be done while walking, driving or even standing around in the courtroom. How much time do we spend in what I call the "hurry up and wait" aspect of the hearing or trial? We race to the courtroom only to wait for an hour for the judge to clear off his or her calendar. Instead of fuming about wasting time, we can redirect our efforts to improving our performance. Take a few minutes to be centered. Take a few deep breaths. Step out of the courtroom and



walk down the hall. Let go of thinking about your case.

Stop thinking about your case. In order to maximize your courtroom performance, you must stop thinking about your case right before you begin your argument. It is a strange paradox, but by not constantly thinking and worrying about the case before the hearing, you will be able to bring it into sharper focus when you begin.

It has been my experience that most lawyers cram for the hearing just like they probably crammed for law school exams. Cramming wasn't the best way to ace a law school exam and it isn't going to help you prepare for court. Therefore, once you have done what you need to do to know your case, let yourself relax. We can recall facts better when we are relaxed, and when our recall is better, our performance in court is better.

How to apply these techniques in your practice

To apply these techniques in your litigation practice, you must keep in mind that it all starts with preparation. Preparation is the key to winning any case, but it is smart preparation, not necessarily the hardest preparation, that will enable you to achieve success.

If you spend all your time in an analytical mode, reading every deposition and analyzing every fact in the case, you will often lose sight of the forest for the trees. After you have mastered the basic facts of your case, let your creative right brain work in balance with your analytical left brain. You will be surprised at the results you get.

For example, I once heard the wife of Marvin Lewis, one of our great trial lawyers, speak about her late husband's trial preparation. Every night in his long and illustrious career, he would go to a movie before closing argument! Can you believe that? Who would really go out and see a movie when preparing for a final argument the next day? Marvin Lewis found doing this was a great way to relax and his performance as a

powerful speaker in closing argument was legendary. Although you may not be ready to go to the movies, you certainly should make an attempt to try to relax the evening before an important hearing.

What do you do on the morning of the big hearing? Assuming that you will drive to the courthouse, leave plenty of time for your commute. In addition, I would strongly urge you to not listen to the radio on the way to the hearing. Drive in silence. Relax and do some deep breathing. Let go of thinking about the case. Just get in touch with your body and allow yourself to completely relax. In other words, do a little driving meditation or walking meditation even as you move up to the place of the hearing. Believe me, you won't forget your case. Everything that is in your brain will come back when you need it if you are able to recall it in a relaxed state. It is only when we are nervous, anxious and tired that we have difficulty recalling facts well-known to us and begin to perform at poor levels.

The three or four minutes before the hearing begins are crucial. This is the point where you really must make every effort to relax. As I mentioned earlier, try a little stretching and deep breathing. Then get away from the distractions around you. This includes your client, co-counsel and anyone else. Take a few minutes to go within yourself and allow yourself to be centered, relaxed and at ease. A quiet trip to the restroom is often the best way to give yourself these few minutes.

When the hearing begins, be in the present moment. This is a well-known Buddhist precept that is applicable to any relaxation technique and ultimately to peak performance. It means that you are aware of the things that are going on around you. Sometimes when you are really in the present moment, it seems as though you have almost stepped outside yourself and are observing things happening in slow motion. You are not trying to think of what you are going to say in the next minute, two, or ten minutes from now. You don't get ahead of your-

self. You are not prone to the distractions of opposing counsel's objections.

All lawyers love to talk – that is what we learn to do as lawyers. However, it is the lawyer that speaks from the heart, from being centered and from being in the present moment that will make the most powerful presentation. Also, focus on speaking slowly. This will enable the judge and jury to better understand the points you are making.

Many lawyers have poor listening skills. We are so interested in what we are going to say and how we are going to rebut the point being made by opposing counsel or the judge that we are always jumping ahead of ourselves. As a result, we don't listen to what the judge is saying, which puts us at a serious disadvantage. Many judges have told me that not listening is one of the biggest faults of lawyers – most fail to listen to what the judge or witnesses are saying.

Conclusion

I have learned the skills discussed in this article from experience. However, you can get up the learning curve much more quickly by beginning to read and study the concepts that I have discussed. A lawyer who is best in touch with his or her inner self will be able to use these skills better. He or she will be a peak performer.



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